

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON**

In Re:

GREGORY CHARLES MILLER AND  
KELLEY MARIE ANKIEL-MILLER,

Debtors,

**ADVERSARY COMPLAINT  
SEEKING LIEN AVOIDANCE OF  
WHOLLY UNSECURED LIEN**

GREGORY CHARLES MILLER AND  
KELLEY MARIE ANKIEL-MILLER,

Plaintiffs,

Case No.: 14-15453-KAO

Adversary No.

v.

SELECT PORTFOLIO SERVICING

Defendant.

**ADVERSARY COMPLAINT SEEKING  
LIEN AVOIDANCE OF WHOLLY UNSECURED LIEN**

NOW COMES, the Plaintiffs, Gregory Charles Miller and Kelley Marie Ankiel-Miller, by and through their attorney, Lisa S. Tse of Advantage Legal Group, and for the purpose of this complaint allege the following:

1. This adversary proceeding arises out of Plaintiffs' Chapter 13 case now pending before this Court. This Court has jurisdiction to consider the matters herein pursuant to 28 U.S.C. §§ 157 and

**ADVERSARY COMPLAINT SEEKING LIEN AVOIDANCE OF  
WHOLLY UNSECURED LIEN - 1 of 3**

ADVANTAGE LEGAL GROUP  
12207 NE 8<sup>th</sup> Street  
Bellevue WA 98005

1 1334 and 11 U.S.C § 506 and 1322. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A),  
2 (B), (K), and (O).

3 2. Plaintiffs are a natural person(s) living in Everett, Snohomish County, Washington.  
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5 3. Defendant Select Portfolio Servicing, Inc. (hereinafter referred to as “SPS”) is a corporation  
6 licensed to do business, and actually doing business within the State of Washington.

7 4. Plaintiffs are the owners of a parcel of real estate located in Everett, Snohomish County,  
8 Washington: (1) commonly described as 4609 128<sup>th</sup> Place SE Everett, WA 98208 (2) legally  
9 described as PARK MAR NORTH BLK 000 D-00 – LOT 28 UND INT IN OPEN SPACES 501-  
10 502-503-504, (3) and tax parcel number 00688800002800.

11 5. Prior to the filing of this bankruptcy case, Plaintiffs allegedly executed a junior lien in favor of  
12 SPS, or Defendant’s predecessor, evidencing a loan by Defendant SPS.  
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14 6. On the date of filing of Plaintiffs’ Chapter 13 Petition, July 18, 2014, Plaintiffs were allegedly  
15 indebted to SPS or its successors and/or assigns under such instrument in the approximate sum of  
16 \$42,256.00 for the junior lien.

17 7. On the date of filing of Plaintiffs’ Chapter 13 Petition, the value of Plaintiffs’ real property  
18 described above was \$229,300.00 per the Snohomish County Property Tax Assessor’s Office  
19 estimated value of the home, and as stated in Schedule A of Plaintiffs’/Debtors’ bankruptcy. On  
20 that date, the debt owing to senior lienholder Ocwen Loan Servicing LLC was approximately  
21 \$308,140.00.

22 9. No equity in Plaintiffs’ real property exists to which Defendant’s lien can attach. Therefore,  
23 pursuant 11 U.S.C. §§ 506 and 1322, and in re Zimmer, 313 F.3d 1220 (9th Cir. 2002), Plaintiffs  
24 are entitled to “strip off” the lien held by Defendant so that such lien becomes voided and no  
25 longer remains a lien against Plaintiffs’ real property.  
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Respectfully submitted this 16<sup>th</sup> day of September, 2014.

Attorney for Plaintiffs/Debtors